United Nations CCPR/C/122/D/2642/2015

International Covenant on Civil and Political Rights

Distr.: General
29 June 2018

Original: English

Human Rights Committee

Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2642/2015*, **

Communication submitted by:	S. (not represented by counsel)
Alleged victim:	The author
State party:	Denmark
Date of communication:	19 June 2014 (initial submission)
Document references:	Decision taken pursuant to rule 97 of the Committee's rules of procedure, transmitted to the State party on 17 August 2015 (not issued in document form)
Date of adoption of Views:	26 March 2018
Subject matter:	Deportation to Bangladesh
Procedural issue:	Lack of substantiation
Substantive issues:	Torture; cruel, inhuman or degrading treatment or punishment; refoulement
Articles of the Covenant:	1, 7 and 9
Article of the Optional Protocol:	2

1.1 The author of the communication is S., a national of Bangladesh born on 6 December 1983. He claims that his rights under articles 1, 7 and 9 of the Covenant will be violated if he is to be returned to Bangladesh by the State party. The Optional Protocol entered into force for Denmark on 23 March 1976. The author is not represented by counsel.

1.2 On 17 August 2015, pursuant to rule 92 of its rules of procedure, the Committee, acting through its Special Rapporteur on new communications and interim measures, requested the State party to refrain from deporting the author to Bangladesh while his case was under consideration by the Committee. On 4 September 2015, following the Committee's request to the State party to refrain from deporting the author, the Refugee Appeals Board suspended the time limit for the author's departure from Denmark.

* Adopted by the Committee as its 122nd session (12 March–6 April 2018).

** The following members of the Committee participated in the examination of the communication: Yadh Ben Achour, Ilze Brands Kehris, Sarah Cleveland, Ahmed Amin Fathalla, Olivier de Frouville, Ivana Jelić, Bamariam Koita, Photini Pazartzis, Mauro Politi, José Manuel Santos Pais, Yuval Shany and Margo Waterval.

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Factual background

2.1 The author is a citizen of Bangladesh of Muslim faith. He indicates that he is a member of the Jamaat-e-Islami, a political party that opposes the Government of Bangladesh. Since 2007, he has been regarded as a non-cooperative member of the party who should be punished.[1] The author has been affiliated with the party since 1989, when he was sent to a party-run school called the Alia Madrasa. When his father died in 2000, he remained without financial support. He therefore started to live at the school because it was free of charge and provided food and clothing for free. One condition that had to be met in order to live in the school was to join the young people's branch of the Jamaat-e-Islami. As part of that movement, the author had to participate in activities designed to promote the school and the party, such as: recruiting new members, including students from other schools; collecting donations for the school and the party; discussing the Jamaat-e-Islami view of Islam; and learning martial arts.

2.2 Between 2002 and 2004, he went back to living at home but continued to attend the Alia Madrasa. During this time, he taught other students martial arts so that they could fight if demonstrations became violent. He also attended demonstrations himself and encouraged others to do so. The author states that he had to bring between 5 and 10 people to each demonstration.

2.3 Between 2004 and 2006, the author became a senior member of the young people's branch of the Jamaat-e-Islami and stopped attending class. He was responsible for planning, preparing and leading demonstrations, working to earn money for the party and collecting donations. As he was a martial arts instructor, the author was also expected to fight in demonstrations in case of tensions.

2.4 In October 2007, the author's family advised him to stop his activities with the branch because they had become dangerous; there were many demonstrations in the capital city and the party was engaging in illegal activities such as setting cars and buses on fire. The author decreased his activities little by little. The last demonstration he was involved in was in October 2007. He was requested to be in the front to fight in case there were clashes, but he refused to do so and went home.

2.5 After the author disobeyed the party and left the demonstration in October 2007, he was summoned twice to meet with Jamaat-e-Islami leaders, which he refused to do. On a third occasion, the author agreed to meet with two leaders outside a girls' high school. The leaders demanded an explanation from the author and reminded him of his pledge to the party. The author indicates that the leaders blamed him for the death of some party members resulting from violent clashes during the previous demonstration, and stated that the Bangladeshi police would "get him for this". The author explained that he wished to leave the party. In response, the author was attacked by the leaders and beaten with iron knuckles. He also had his stomach cut with a razor, as a result of which he still has visible scars. The author was admitted to a clinic and then transferred to a private doctor.[2] He then went to stay with his aunt in Faridpur for approximately one month while he recovered from the attack. A few days after the attack by the leaders of the party, the Jamaat-e-Islami was accused of committing a terrorist attack during a demonstration, in which two cars were set on fire and two people suffered burns and died. The author learned that the authorities believed that he was connected with this crime, even though he had not taken part in it.[3] The author believes that he was denounced by the Jamaat-e-Islami leaders as punishment for trying to leave the party.

2.6 In December 2007, the author's cousin informed him that he had been charged in a case arising from the demonstration in October 2007. The author's cousin stated that the charge had been reported in two newspapers with nationwide circulation, the *Daily Ittefaq*

[1] See paras. 2.4–2.5.

[2] The author does not provide a medical report. He also states that public doctors have a duty to provide information to the police, and affirms that he was scared that the police would be notified since the leaders of the party had threatened him.

[3] The author does not specify who gave him this information.

and the *Daily Inqilab*. The author notes that his name was reported incorrectly.[4] Furthermore, the author indicates that he has also learned that his name was on a list of persons accused of the murder in August 2007 of a well-known professor who had written many books on the Jamaat-e-Islami and spoken out against the party in university lectures. The author has provided the Committee with court documents related to the charges.[5]

2.7 After learning about these accusations, the author fled Bangladesh in December 2007. He arrived in Greece in August 2008, after passing through India, Pakistan, the Islamic Republic of Iran and "other countries". He lived on the street in Greece for over two years and then tried to go back to Bangladesh. When the author reached the India-Bangladesh border, he called his family. His cousin, who is a member of the youth branch of the Jamaat-e-Islami, told him that he should not enter the country because he would be killed or put in prison and tortured. According to the cousin, the author's mother had said that the Bangladeshi police had come to her house three times to look for the author in connection with the charges against him regarding the professor's killing. The author's cousin also informed him that, according to his mother, the police were arresting young members of the Jamaat-e-Islami for the death of the university professor. She had alleged that the police were beating and torturing these young members to identify other members of the party and were placing them in prison without a trial. Furthermore, the author's mother had stated that some low-level members of the Jamaat-e-Islami had told her that the party knew that the author was still alive after the assault perpetrated by the leaders in October 2007.[6] The author claims that, after hearing this news, he decided to travel back towards Europe.

2.8 On 7 November 2011, after passing through India, Pakistan, the Islamic Republic of Iran, Turkey, Greece and Italy, the author arrived in Denmark without valid travel documents. On 8 November 2011, he applied for asylum. On 17 November 2011, 25 June 2012 and 26 September 2013, the Danish police interviewed the author and he stated his reasons for applying for asylum. On 15 October 2013, the Danish Immigration Service rejected the author's application for asylum. It noted that the author had provided divergent explanations for key events related to his asylum claims and that he lacked credibility. The Immigration Service was not convinced by the author's account of his membership with the Jamaat-e-Islami,[7] the charges against him in Bangladesh,[8] the threats received from Jamaat-e-Islami members[9] or how he had translated documents from Bengali into English. Furthermore, it emphasized that, on 30 August 2013, the Danish Ministry of Foreign Affairs had concluded that the documents provided by the author stating the charges against

[4] The interview report dated 25 June 2012, contained in the Refugee Appeals Board's decision, indicates that the author stated that he had been falsely accused in this case, as his name had been confused with that of another person, who was also a member of the Jamaat-e-Islami.

[5] The author only provided translations of the documents dated 2012, not the originals. They were also provided to the State party and include: (a) documents dated 4, 7 and 8 December 2011 related to the investigation into the murder of the professor, Humayun Azad — it is not clear whether the documents have been issued by the Chief Metropolitan Magistrate Court of Dhaka or to that body; (b) a document dated 28 February 2004 related to the investigation into the murder of Mr. Azad — this appears to be a police report on the murder of the professor, which occurred the same day; (c) an affidavit by the brother of Mr. Azad dated 28 February 2004 in relation to the investigation into the murder of his brother; (d) documents dated 4, 7 and 8 December 2011 related to the investigation into the murder of Mr. Azad (police report submitted to the Chief Metropolitan Magistrate Court of Dhaka); (e) a charge sheet related to the investigation into the murder of Mr. Azad — the above-mentioned person whose name is very similar to the name of the author, with a slightly different spelling, is among the accused in the case.

[6] See para. 2.5.

[7] The Immigration Service indicated that, while in his interview of 17 November 2011 the author stated that he had joined the Jamaat-e-Islami in 2002, in the interview of 25 June 2012 he said that he had joined it in 2006, having been a sympathizer from 2004 to 2006.

[8] According to the Immigration Service's decision, in his asylum application of 18 November 2011 the author stated that he had been charged with arson and the subsequent destruction of two cars, which had resulted in two people being killed. However, in his interview of 25 June 2012 the author indicated that he was not aware of the nature of the charges against him in Bangladesh.

[9] The Immigration Service indicated that the author's allegations that he had received threats from the leaders between January and October 2007 were not credible.

him in Bangladesh were not genuine. The Immigration Service concluded that the author had not been persecuted at the time of departure and that he did not risk persecution upon his return. It also concluded that the author did not face a risk of being subjected to abuse if returned to his country. As he had an offer of employment that met the minimum requirements, the author was advised by the Immigration Service, in its decision, that he could apply for a residence permit.

2.9 The author appealed the decision of the Immigration Service and, on 7 January 2014, the Danish Refugee Appeals Board upheld the decision. The Board considered that the author had given vague and inconsistent statements during his asylum proceedings in relation to: (a) the course of events prior to his departure from Bangladesh, as on one occasion he indicated that he had left Bangladesh in July 2008, while on other occasions he stated that he had left the country in December 2007 or early 2008; (b) his membership with Jamaat-e-Islami, as he first stated that he had become a member in 2002 and then indicated that he had started sympathizing with the party in 2004 and become a member in 2006; (c) his attendance at the Qur'an school, as he first indicated that he had attended it from 1998 to 2000, then stated that he had attended it from 2000 to 2004, and on another occasion indicated that he had attended it from 2004 to 2006; (d) his employment in Bangladesh, as while on one occasion he indicated that he had worked as a hairdresser and at a furniture factory from 2003 to mid-2006 and that he had not worked prior to that, on another occasion he stated that he had worked both at a furniture shop and as hairdresser from 2000 to 2006; (e) the conflicts with the Jamaat-e-Islami, as while on one occasion he stated that he had been threatened by members of the party in January 2007 because of his refusal to participate in some of the party's activities, he later stated that he had been threatened in October 2007 and subsequently assaulted by leaders of the party; (f) the charges against him in Bangladesh, as while the author initially indicated that he had been charged only in relation to one incident in which two persons had died following a demonstration during which some cars were burned, he later stated that he had been charged in connection with a demonstration in October 2007 during which two members of the Jamaat-e-Islami and two police officers had died as a result of violent clashes, and subsequently indicated that he had been charged in relation to three different incidents, including the first incident referred to above, plus an incident in 2007 in Dhaka in which a person had been killed in an explosion and another incident about one year before his departure from Bangladesh in which a university professor had been killed; (g) the way in which he had obtained the court documents submitted to the Danish authorities, as while he first stated that the court had sent the documents to the police and that the police had subsequently sent them to his cousin's address, on another occasion he indicated that he had received the documents from his attorney, who had procured a copy of them from the authorities and then forwarded them to the author's cousin, who had subsequently forwarded them to the author; (h) the way in which the newspapers had learned about the charges against him — or the person whose name is very similar to that of the author, but with a slightly different spelling — as when asked how the newspapers had learned about the charges, the author indicated that journalists were entitled to receive that kind of information if they requested it from the police, but when informed that the printing of information on an ongoing investigation would obstruct an investigation, the author indicated that the case had been investigated for a long time and that everyone knew who the suspects were.

2.10 The Board's decision also indicates that the Ministry of Foreign Affairs had requested verification of the court documents provided by the author and that it had issued a memorandum on the matter. According to the Ministry's memorandum dated 30 August 2013, those documents were verified and it was concluded that they were not genuine and did not prove the charges against the author in Bangladesh. The Ministry's memorandum indicates that the verification involved a visit to the court in order to compare the documents provided and the originals, and that the documents referred to two different cases. The author's name did not appear in any of the documents related to the two cases referred to in his asylum application. Nor did his name appear in the list of names of the accused persons or the list of persons who had been arrested without being charged. When asked about these findings, the author replied that he did not know how the Ministry had

carried out its verification activities, and insisted that a criminal case against him existed in the court of Dhaka.

2.11 The Board concluded that the author had not been able to substantiate the grounds for asylum. It also stated that the author had presented insufficient evidence to establish that he was more than a sympathizer of the Jamaat-e-Islami and that, accordingly, he was not a high-profile individual in the eyes of the authorities or any political party. Therefore, the alleged isolated assault that had taken place in October 2007 — the attack by the party's leaders — could not justify the asylum claim.

2.12 On 10 December 2015, the author submitted to the Board a certificate from the Bureau of Human Rights Bangladesh indicating that he had been subjected to torture in Bangladesh, that his life was threatened there and that false accusations had been made against him, involving him in a murder. He also submitted two undated articles in Bengali indicating that the Jamaat-e-Islami would soon be declared illegal in Bangladesh because of the party's criminal offences against people perpetrated in the context of the liberation movement in 1971, and that an individual with the same name as the author had been provisionally charged as a traitor and was on the run. According to the second article, that person was a well-known student leader of the Jamaat-e-Islami students' organization and had been charged with treachery. The article also stated that there were more pending cases against him and that, therefore, he was a person of interest to the authorities. The Board considered the submission of these documents as a request to reopen the asylum proceedings. On 12 February 2016, the Board refused to reopen the asylum proceedings. It noted that, based on their appearance, content and late submission, the documents appeared to be fabricated for the occasion. It also stated that the author had failed to explain why the documents had not been provided at an earlier stage of the asylum proceedings. The Board referred to a memorandum published by the Norwegian Country of Origin Information Centre (Landinfo) that stated that it was easy to obtain false documents in Bangladesh. Therefore, the Board relied on the reasoning of its decision of 7 January 2014 and rejected the author's request to reopen proceedings.

The complaint

3.1 The author claims that if he were deported to Bangladesh, he would risk being imprisoned and tortured because of the false charges against him for crimes committed by the Jamaat-e-Islami and because he would be considered as a member of that organization, and that the authorities are very harsh with its members.[10] He submits that he would be arrested and tortured and could even be sentenced to death, in violation of his rights under article 9 (1) of the Covenant.

3.2 The author also claims that he is considered to be a traitor by the Jamaat-e-Islami and could be killed for refusing to cooperate with them, because members are supposed to cooperate for life. He indicates that he has learned from low-level members of the Jamaat-e-Islami that the party is aware that he did not die as a result of the attack by the party's leaders in October 2007 and that they would try to kill him again. He further alleges that the Bangladeshi authorities will not protect him because the Jamaat-e-Islami is an anti-government group. He therefore considers that deporting him to Bangladesh would amount to a violation of article 1 of the Covenant.

State party's observations

4.1 On 17 February 2016, the State party submitted its observations on the admissibility and the merits of the communication. It provides a description of relevant domestic legislation and submits that the complainant's asylum request was considered in accordance with that legislation, in particular the Aliens Act, which reflects the same principles as those established in article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), in compliance with its

[10] The author refers to a press release by Amnesty International, "Bangladesh: disturbing increase in disappearances, clampdown on press freedom", 2 September 2014. He also refers to Human Rights Watch, *World Report 2014: Bangladesh*, available at www.hrw.org/world-report/2014/country-chapters/bangladesh.

international obligations regarding asylum applications. The State party also describes the structure, composition and functioning of the Refugee Appeals Board.[11]

Admissibility

4.2 The State party argues that the author's claim under article 1 of the Covenant is inadmissible under article 1 of the Optional Protocol. It submits that the right of all peoples to self-determination and the right to freely determine their political status, pursue their economic, social and cultural development and dispose of their natural wealth and resources is a collective right. In this connection, it refers to the Committee's jurisprudence, according to which an individual cannot claim to be the victim of a violation of the right to self-determination enshrined in article 1 of the Covenant, as that article deals with rights conferred to peoples.[12]

4.3 Regarding the author's claim under article 9 of the Covenant, the State party states that it is not aware of any case in which the Committee has applied article 9 extraterritorially. It refers to a decision by the European Court of Human Rights, *Othman (Abu Qatada) v. the United Kingdom*, in which the Court decided to apply extraterritorially article 5 of the European Convention on Human Rights, which is similar to article 9 of the Covenant. In that decision the Court stated that:

> A Contracting State would be in violation of Article 5 if it removed an applicant to a State where he or she was at real risk of a flagrant breach of that Article. However, as with Article 6, a high threshold must apply. A flagrant breach of Article 5 would occur only if, for example, the receiving State arbitrarily detained an applicant for many years without any intention of bringing him or her to trial. A flagrant breach of Article 5 might also occur if an applicant would be at risk of being imprisoned for a substantial period in the receiving State, having previously been convicted after a flagrantly unfair trial.[13]

4.4 The State party further considers that the author has failed to demonstrate that a flagrant violation of article 9 of the Covenant would occur if he were to be deported to Bangladesh. It therefore considers that this claim is manifestly unfounded and should be held inadmissible under rule 96 of the Committee's rules of procedure.

Merits

4.5 The State party indicates that it does not consider it relevant to comment any further on the author's claims regarding article 1 of the Covenant.

4.6 Regarding the claims under article 9, the State party submits that the author has not sufficiently established that his return to Bangladesh would constitute a violation of this provision. The State party also notes that the author has not provided any new information in addition to the information made available to the domestic authorities during the asylum proceedings.

4.7 The State party further reiterates that the author lacked credibility during the asylum proceedings. It also states that the Refugee Appeals Board evaluates an asylum seeker's credibility on the basis of an overall assessment, and that if his or her statements appear coherent and consistent, they are normally considered as facts. However, when an asylum seeker's statements are characterized by inconsistencies, as in the author's case, the Board attempts to clarify the reasons for such inconsistencies. The State party further recalls that on 7 January 2014, the Board found that the author had not been able to substantiate his grounds for asylum, as in relation to several points he gave evasive answers. He also gave inconsistent statements in relation to the course of events prior to his departure, including the time of his membership of the Jamaat-e-Islami, his activities for the party, the dates of his attendance at the Qur'an school, the periods when he had had jobs, the dates of and

[11] See *Obah Hussein Ahmed v. Denmark* (CCPR/C/117/D/2379/2014), paras. 4.1–4.3.

[12] See *Kitok v. Sweden* (CCPR/C/33/D/197/1985), para. 6.3. The State party also refers to *Lubicon Lake Band v. Canada*, communication No. 167/1984 and *H.E.A.K v. Denmark* (CCPR/C/114/D/2343/2014).

[13] See European Court of Human Rights, *Othman (Abu Qatada) v. the United Kingdom*, application No. 8139/09, ruling of 17 January 2012, para. 233.

motives for his conflicts with the Jamaat-e-Islami, the way in which the court documents were surrendered to his cousin, the name of his attorney, the newspaper articles on the charges against him and the time of his departure.

4.8 The State party refers to each of the inconsistencies described above, reiterating the findings of the Board.[14] It emphasizes, with respect to the alleged charges against the author regarding the killing of a professor, that the author first mentioned that the killing had occurred on 21 August, about one year before he left Bangladesh, which in the State party's view corresponds to the period between December 2006 and July 2007. After being informed that the court documents submitted by him indicated that the killing of the professor had taken place in 2004, he changed his version of the facts, affirming that he had been charged with the killing of a professor that had occurred in 2004. The State party also highlights that, according to the Ministry of Foreign Affairs' verification of the court documents produced by the author during his asylum process, he was not a party in the criminal cases relating to the crimes of which he alleged to have been accused.[15] The State party concludes that, as decided by the Board, it is not possible to attach any evidential weight to such documents.

4.9 The State party further states that the author had not rendered probable that he would be considered as a suspect of the crimes based on the false charges against him or that he would be considered as a person of interest by the authorities of Bangladesh, given that he is not a high-profile member of the Jamaat-e-Islami, but only a sympathizer. The Board did not find any specific reason to assume that the author would risk abuse by the Jamaat-e-Islami upon return. Moreover, the activities performed by the author for the Jamaat-e-Islami date back many years. This is confirmed by background information, including a 2015 report by the British Home Office, according to which:

> Membership or support of groups opposed to the current government does not of itself give rise to a well founded fear of persecution in Bangladesh. Decision makers must assess claims made on the basis of the person's actual or perceived involvement in political opposition to the current government on the facts of the case, taking account of the nature of the applicant's claimed political activity or profile; and the extent to which they may have come to the adverse attention of the authorities and the reasons for that; the level and nature of actual or perceived political involvement as well as their previous experiences in Bangladesh.[16]

4.10 The State party reiterates that the author failed to demonstrate that he would face a real risk of a breach of article 9 of the Covenant in case of deportation to Bangladesh.

4.11 Finally, the State party recalls that important weight should be given to findings of domestic authorities, and that it is generally for State organs to assess the facts and evidence of each case, unless it can be established that such assessment was arbitrary or amounted to a denial of justice.[17] The author has failed to explain whether there were any irregularities in the decision-making process.[18] The State party also notes that, in his communication to the Committee, the author has failed to provide new, specific details about his situation. This reflects that he merely disagrees with domestic decisions, and that he is trying to use the Committee as an appellate body.

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[14] See para. 2.9.

[15] See para. 2.10.

[16] British Home Office, *Country Information and Guidance — Bangladesh: Opposition to the Government* (February 2015). The State party also refers to United States Department of State, *2013 Country Reports on Human Rights Practices — Bangladesh* (27 February 2014) which states that, "while political affiliation was sometimes a factor in the arrest and prosecution of members of the opposition parties, the government did not prosecute individuals solely for political reasons".

[17] The State party refers to *P.T. v. Denmark* (CCPR/C/113/D/2272/2013), para. 7.3; *K v. Denmark* (CCPR/C/114/D/2393/2014), paras. 7.4–7.5; and *N. v. Denmark* (CCPR/C/114/D/2426/2014), para. 6.6.

[18] The State party refers to *X and X v. Denmark* (CCPR/C/112/D/2186/2012), para. 7.5 and *Z v. Denmark* (CCPR/C/114/D/2329/2014), para. 7.4.

Author's comments on the State party's observations

5.1 On 11 April 2016, the author submitted his comments on the State party's observations. Regarding the State party's argument that he failed to substantiate his allegations, the author states that he is "heavily traumatized" as a result of the attack by the Jamaat-e-Islami members that he suffered in Bangladesh and as a result of being on the run and living on the streets and in refugee camps for about four years. The author states that the trauma affects his memory. In this regard, he indicates that he has difficulty putting events in chronological order and that it is difficult to attach precise dates to events that happened many years ago, including when he was a child or a teenager. Moreover, his ability to concentrate has decreased owing to the trauma he has suffered. He states that the interviews during his asylum proceedings were very long and that the same questions were asked several times in different ways. There was a point when he was not able to concentrate anymore and just responded to the questions "in a haze".

5.2 The author further states that the method used by the Danish authorities during the interviews made it difficult for him to answer in a precise way. Once the questions had been translated by the interpreter, he would start to reply, but the interviewer would cut him off, asking him to shorten his answers. Therefore, every time he provided details, the interpreter's translations were cut off by the interviewer and could therefore not be taken into account.

5.3 These difficulties are exacerbated by the differences between the Islamic and the European calendars. The author indicates that when he was a child or a teenager, he was used to the Islamic calendar, and that when he was questioned about events that happened then, it was difficult for him to give precise dates according to the European calendar, as, for instance, one month in the Islamic calendar can fall between two months in the European calendar. In addition, the interpreter himself would not be able to precisely translate certain dates according to the European calendar.

5.4 Regarding the inconsistencies highlighted by the State party concerning his attendance at school, his work and his membership of the Jamaat-e-Islami, the author indicates that he cannot be sure on which precise date he started to go to the Qur'an school. He indicates that he went to the school while living there, but that he went on attending the school after having returned to live at home. During another period, he was not a student at the school, but remained linked to it because he was a supporter of the Jamaat-e-Islami. Regarding his work, he indicates that he worked when he could, in order to provide his family with money. As he did not have fixed employment, and taking into account that these activities — school, work and Jamaat-e-Islami membership — overlapped, the author submits that it is very difficult to provide precise dates to the Danish authorities.

5.5 Furthermore, the author refers to a 2014 report by the United States Department of State, according to which in Bangladesh there are extrajudicial killings, enforced disappearances, torture and ill-treatment committed by the security forces, as well as arbitrary arrests and lengthy pretrial detentions.[19] He also refers to the Amnesty International Annual Report for 2014/15, which states that the police routinely torture detainees in custody. The author highlights that the report indicates that torture and other ill-treatment are widespread and committed with impunity.[20] The author further refers to a 2015 report by Human Rights Watch, according to which "thousands of opposition members and protesters were arrested, and unknown numbers remain in custody".[21] The report states that the security forces in Bangladesh continue to enjoy near total impunity, despite their abuses being documented by independent actors. The author concludes that, taking into account the above background information, the risk of being subjected to torture or ill-treatment if returned to Bangladesh is demonstrated.

5.6 Regarding the State party's argument that the court documents submitted by the author during the asylum proceedings do not have any evidentiary weight, the author

[19] United States Department of State, *2014 Country Reports on Human Rights Practices — Bangladesh*, (25 June 2015).

[20] Amnesty International, *Annual Report 2014/2015*, p. 73.

[21] Human Rights Watch, "UN Human Rights Council: Item 4 General Debate", 11 September 2015.

indicates that he cannot comment on the Ministry of Foreign Affairs' memorandum dated 30 August 2013 as he has never had access to it.

5.7 He adds that the Board's decision of 12 February 2016, which dismissed the documents submitted by him on 10 December 2015,[22] is wrong because it is not possible to reject such documents as false on the basis of aspects such as "their appearance". Moreover, the fact that the Board rejected those documents because the author had previously submitted documents not deemed genuine is unacceptable as it seems to conclude that a person who once submitted documents not deemed genuine cannot ever produce an authentic document. As per the State party's reference to the report by Landinfo, according to which it is easy to obtain false documents in Bangladesh, the author states that such affirmation is not sufficient to conclude that his documents are false. In the author's view, the Board has based its decision on the appearance of the documents, rather than on any evidence or well-documented facts.

Further submissions by the State party

6.1 On 2 December 2016, the State party provided further observations. It reiterates that the author has not provided any new information on his initial grounds for asylum. Regarding the author's claim that he has difficulty concentrating and putting events in chronological order owing to trauma, the State party submits that the Board is aware that persons who have been subjected to torture or abuse cannot be expected to give a precise and coherent account of all details of an asylum case. However, in the present case, the author gave inaccurate and inconsistent statements, as well as evasive answers to specific questions. Additionally, the author provides statements to the Committee that are inconsistent with those he made during his asylum proceedings. The State party therefore reiterates that it endorses the findings referred to by the Board in its decision of 7 January 2014.

6.2 The State party further notes that, during the asylum proceedings, the author was given the opportunity to explain the inconsistencies in his accounts. In addition, during his hearing before the Board, the author was asked elaborative questions on the inconsistencies in his statements. The State party concludes that the author's allegation that he could not give precise statements owing to the trauma he had suffered cannot lead to a different evaluation of his credibility.

6.3 Regarding the author's allegations in relation to the method of interviewing and the interpretation services during the asylum proceedings, the State party indicates that the author never mentioned any problems in that regard before the domestic authorities or in his initial complaint to the Committee. The State party notes that the author signed the reports dated 8 November 2011 and 25 June 2012 after they were read out to him. The latter report expressly indicates that the author did not have any problems understanding the interpreter. Throughout the asylum proceedings, the author was advised about the importance of giving as detailed and correct information as possible, and pointing out any problems he might face in understanding the interpreter. Therefore, the State party considers that the author has not rendered probable that any significant misunderstandings occurred during his asylum proceedings owing to the interpretation provided or similar reasons.

6.4 The State party reiterates that, according to background information on the human rights situation in Bangladesh, including the reports quoted by the author, the author has failed to render probable that he would risk any abuse by the Bangladeshi authorities or by the Jamaat-e-Islami upon return, as he had a low profile in the organization and only demonstrated that he was a sympathizer of the Jamaat-e-Islami.

[22] See para. 2.12.

Issues and proceedings before the Committee

Consideration of admissibility

7.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 93 of its rules of procedure, whether it is admissible under the Optional Protocol.

7.2 The Committee has ascertained, as required under article 5 (2) (a) of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

7.3 The Committee observes that the author filed an application for asylum in Denmark, which was ultimately rejected by the Refugee Appeals Board on 7 January 2014, and it notes that the State party does not challenge the exhaustion of domestic remedies by the author. Therefore, the Committee considers that it is not precluded from examining the communication under article 5 (2) (b) of the Optional Protocol.[23]

7.4 The Committee takes note of the State party's argument that the author's claim under article 1 of the Covenant should be declared inadmissible, as an individual cannot claim to be victim of a violation of the right to self-determination, because such provision deals with rights conferred to peoples. The Committee further recalls its jurisprudence that it does not have competence under the Optional Protocol to consider claims alleging a violation of the right to self-determination protected under article 1 of the Covenant.[24] It reiterates that the Optional Protocol provides for a procedure according to which individuals can claim that their individual rights have been violated and recalls that these rights are set out in part III (arts. 6–27) of the Covenant.[25] It follows that this part of the communication is inadmissible under article 1 of the Optional Protocol.

7.5 The Committee notes the author's claim that if he were to be returned to his country, his rights under article 9 of the Covenant would be violated, as he would be arbitrarily arrested and could even be sentenced to death, taking into account that he has been charged with several crimes committed by the Jamaat-e-Islami and that he is a member of that organization. The Committee also notes the State party's challenge to the admissibility of the communication on the grounds that the author failed to demonstrate that a flagrant breach of article 9 could occur in the receiving State, and that this disposition cannot therefore be applied extraterritorially. The Committee recalls that article 2 of the Covenant requires that States parties respect and ensure the Covenant rights for all persons in their territory and all persons under their jurisdiction. This entails, inter alia, an obligation not to extradite, deport, expel or otherwise remove a person from their territory, where there are substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated by articles 6 and 7 of the Covenant, in the country to which removal is to be effected, or in any country to which the person may subsequently be removed.[26] In that connection, the Committee notes that the author did not provide sufficient information regarding his claim under article 9 of the Covenant that would enable the Committee to conclude that his allegations regarding deprivation of liberty would amount to irreparable harm such as that contemplated in articles 6 and 7. Accordingly, the Committee considers that the author has failed to substantiate, for the purposes of admissibility, his allegations that the State party would violate article 9 and it declares that part of the communication inadmissible under article 2 of the Optional Protocol.[27]

[23] See, for example, *A.S.M. and R.A.H. v. Denmark* (CCPR/C/117/D/2378/2014), para. 7.3.

[24] See, for example, *H.E.A.K. v. Denmark* (CCPR/C/114/D/2343/2014); and *Gillot v. France* (CCPR/C/75/D/932/2000), para. 13.4.

[25] See, for example, *Ominayak et al. v. Canada* (CCPR/C/38/D/167/1984), para. 32.1.

[26] See the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 12. See also *Ch.H.O. v. Canada* (CCPR/C/118/D/2195/2012), para. 9.5; and *Contreras v. Canada* (CCPR/C/118/D/2195/2012), para. 9.5.

[27] See *S.Z. v. Denmark* (CCPR/C/117/D/2443/2014), para. 8.4.

7.6 The Committee further notes the author's allegation that he would be subjected to torture or ill-treatment if returned to Bangladesh, as he would be persecuted for being a member of the Jamaat-e-Islami, and that the authorities are very harsh with the members of that organization. The Committee considers that the facts as presented by the author raise issues in relation to article 7 of the Covenant, and therefore concludes that, for the purpose of admissibility, he has adequately explained the reasons for which he fears that his forcible removal to Bangladesh would result in a risk of treatment in violation of article 7 of the Covenant. The Committee therefore declares admissible this part of the communication, and proceeds to its consideration of the merits.

Consideration of the merits

8.1 The Committee has considered the communication in the light of all the information submitted to it by the parties, in accordance with article 5 (1) of the Optional Protocol.

8.2 The Committee recalls paragraph 12 of its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, in which it refers to the obligation of States parties not to extradite, deport, expel or otherwise remove a person from their territory when there are substantial grounds for believing that there is a real risk of irreparable harm such as that contemplated by articles 6 and 7 of the Covenant. The Committee has also indicated that the risk must be personal[28] and that there is a high threshold for providing substantial grounds to establish that a real risk of irreparable harm exists. Thus, all relevant facts and circumstances must be considered, including the general human rights situation in the author's country of origin.[29]

8.3 The Committee recalls its jurisprudence that significant weight should be given to the assessment conducted by the State party, and that it is generally for the organs of States parties to examine the facts and evidence of the case in order to determine whether such a risk exists, unless it can be established that the assessment was arbitrary or amounted to a manifest error or denial of justice.[30]

8.4 The Committee notes the author's claim that the State party failed to take into account that, if he were to be deported, he would face a risk of being subjected to torture or ill-treatment for being a member of the Jamaat-e-Islami who has conducted several tasks for the party, including planning, preparing and leading demonstrations, working to earn money for the party, collecting donations and fighting in demonstrations in case of tensions. The Committee also notes the author's claim that he has been falsely charged of crimes committed by the Jamaat-e-Islami and that, if returned to his country, he would be arrested and tortured, taking into account that domestic authorities are very harsh with members of the Jamaat-e-Islami and that torture of detainees is widespread in Bangladesh. The Committee also notes the State party's argument that the Refugee Appeals Board made a comprehensive and thorough examination of the evidence submitted by the author and considered that he was not credible, as he gave inconsistent statements in relation to the time of his membership of the Jamaat-e-Islami, his activities for the party, the dates of his attendance at the Qur'an school, the periods when he was employed, his conflicts with the Jamaat-e-Islami and the dates of those conflicts, the charges against him, the surrender to his cousin of the court documents relating to such charges, the name of his attorney, the newspaper articles on the charges against him, and the time of his departure from his country.

8.5 The Committee further takes note of the State party's argument that the author has failed to establish that he is more than a sympathizer of the Jamaat-e-Islami and that, accordingly, he is not a high-profile individual in the eyes of the authorities or any political parties. The Committee also notes the State party's statement that the court documents submitted by the author during the asylum proceedings, which indicated that he was

[28] See, inter alia, *Y. v. Canada* (CCPR/C/114/D/2280/2013), para. 7.2; and *P.T. v. Denmark* (CCPR/C/113/D/2272/2013), para. 7.2.

[29] See *Y v. Canada* (CCPR/C/114/D/2280/2013), para. 7.2; and *X. v. Sweden* (CCPR/C/103/D/1833/2008), para. 5.18.

[30] See, inter alia, *Y. v. Canada* (CCPR/C/114/D/2280/2013), para. 7.5; and *Rasappu v. Canada* (CCPR/C/115/D/2258/2013), para. 7.3.

accused of committing two crimes, including the killing of a professor, could not be considered as genuine according to a memorandum of the Danish Ministry of Foreign Affairs dated 30 August 2013. The Committee also notes the author's allegation that he has never seen such a document and that he is not aware of the way in which the Ministry conducted the verification of the documents. The Committee, however, notes that the information available in the file does not enable it to conclude that the author requested at any point to have access to the memorandum, or would have asked for any clarifications as to the way it was produced. The Committee further notes the State party's argument that the Committee must give considerable weight to the findings of the domestic authorities, specifically the Refugee Appeals Board, as that body is best placed to assess the facts in the author's case.

8.6 The Committee also notes the author's allegation that, during the asylum proceedings, he had difficulty concentrating and putting facts in chronological order owing to trauma, and notes his objections to the way in which the interviews were conducted and the problems he faced with regard to the interpretation services. The Committee also notes the State party's argument that the author agreed with and signed the reports of the interviews conducted during the asylum proceedings after they were read out to him, and that one of those reports signed by the author expressly indicated that he had not had any problems with the interpretation services. The Committee further observes that the author has not provided any evidence to support his allegation that the inconsistencies reflected during the asylum proceedings were due to trauma. It also observes that he has not provided any replies to State party's argument that he had never mentioned any problems with the interviewing method or the interpretation services during the asylum proceedings, and that he had signed the reports of the interviews. The Committee further observes that the author has not pointed to any procedural irregularities in the decision-making procedure by the Danish Immigration Service or the Refugee Appeals Board, and therefore considers that, while the author disagrees with the factual conclusions of the Board, he has failed to show that they were arbitrary or manifestly erroneous or amounted to a denial of justice.[31]

8.7 In the light of the above, the Committee cannot conclude that the information before it shows that the author would face a personal and real risk of treatment contrary to article 7 of the Covenant in case of his return to Bangladesh.

8.8. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the author's deportation to Bangladesh, if implemented, would not violate his rights under article 7 of the Covenant.

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[31] See, inter alia, *Y v. Canada* (CCPR/C/116/D/2314/2013), para. 7.6.